Supreme Court of the United States

OCTOBER TERM, 1941

No.

J. B. SPENCER, ET ALS.

versus

LUCKENBACH GULF STEAMSHIP CO.
AND
SWAYNE & HOYT, LTD.

PETITION FOR WRITS OF CERTIORARI AND REVIEW TO THE SUPREME COURT OF LOUISIANA AND BRIEFS IN SUPPORT THEREOF.

A.

On the 12 day of July, 1937, the petitioner together with approximately one hundred (100) members of Local 231, International Longshoremen's Association filed a suit against the Luckenbach Gulf Steam-

ship Company, Inc., and the Swayne & Hoyt, Ltd., for breach of contract.

The petitioners are members of Local 231, International Longshoremen's Association, which is a labor union, an unincorporated voluntary association and which labor union had a contract for the loading, and unloading of ships engaged in foreign and domestic commerce in the Port of New Orleans.

The cause of action set up and the complaint was that the said companies had, without legal cause breached their labor contract and had locked out members of this union, from further work on the piers on the riverfront in New Orleans.

The petitioners sought damages for having been locked out, and for the breach of contract made between them as a Union, and the fact that the said breach was made deliberately, and with malice by the said companies, and that the loss was the loss to the association of dues amounting to approximately TWENTY-FIVE HUNDRED DOLLARS ($2500.00), and the loss of earnings to the petitioners, amounting to approximately THIRTY DOLLARS ($30.00) per week, per man.

The defendant corporations were dismissed from this suit by the Supreme Court of Louisiana on a plea of **"no right or cause of action"**. This plea had been overruled in the District Court. The plea of **"no right or cause of action"** was based on the opinion by the Supreme Court of Louisiana that a labor union as such, and individual members could not sue for loss incurred by them,

because of the breach of contract between them and the offending steamship companies.

B.

The decision of the Supreme Court deprived the petitioners of their right to contract as individuals, and as members of a labor union, and also deprived them of their right to sue for the breach of said contract. The decision thereby impairs the obligation of a contract, in violation of Sec. 10, Art. 1 of the Constitution of the United States, and it deprives them of "due process of law and of equal protection of the law".

The case further involves the right of members of labor unions engaged in work affecting interstate and foreign commerce to sue where they have been locked out and where the contract between them, and their employers, has been deliberately breached, without cause by their employers.

The case further involves the right of labor unions to enforce contracts made under the jurisdiction of the United States Department of Labor, Mediation Board, under which this contract was made.

This case was decided by the Supreme Court of Louisiana on the 31st day of March, 1941, and a rehearing was asked for and the rehearing was refused on April 28th, 1941. That Petitioners have their remedy in the Louisiana Courts.

C.

Petitioners now allege that the judgment of the Supreme Court of Louisiana is erroneous, particularly for

the following reasons, all of which are of record and were raised in the District Court by the pleadings therein, to-wit:

A. That the said Court, in depriving your petitioners of the right to sue for breach of contract, deprived them of a right, which is guaranteed to all other citizens of the United States and to citizens of Louisiana, and is in violation of the 14th Amendment to the Constitution of the United States in that it deprives them of due process of law and of equal protection of the law.

B. Your petitioners further say that this contract is affected with and pertains entirely to interstate and foreign commerce, and is cognizable under the law of the United States. That its breach on the part of the steamship companies was a blow at interstate and foreign commerce and that the subsequent lock out affected seriously the foreign commerce of the Port of New Orleans.

C. That the impairment of the obligation of this contract by the Supreme Court of Louisiana is in violation of the United States Constitution, and particularly in violation of Amendment 14 of said Constitution in that it deprives petitioners of the equal protection of the law.

D. This case is in direct conflict with all of the cases in Louisiana, wherein the right to sue for breach of contract is maintained, and is in direct conflict with the Constitution of Louisiana, which guarantees under **Article 1, Section 6:**

> "All courts shall be open, and every person for injury done him in his rights, lands, goods, person or reputation shall have adequate

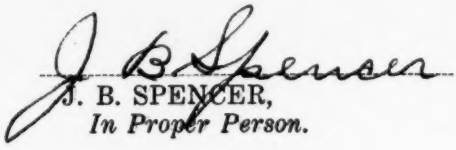
remedy by due process of law and justice administered without denial, partiality or unreasonable delay."

Petitioners have attempted to secure adequate remedy for breach of contract and the Supreme Court of Louisiana has held that they have no right to file this suit, **"no right of action"**. This decision is in direct conflict with the Constitution of the United States and particularly Article 1—Sec. 10 thereof; and with the 14th Amendment, depriving members of Labor Unions of "due process of law."

It not only is in conflict with the Constitutions of both the United States and Louisiana, but it is in direct conflict with the *Dartmouth College* case in that it allows the impairment of the obligation of a contract by a court of the state, and deprives petitioners of vested rights which they had to enforce this contract.

WHEREFORE, because of the immediate importance of the Constitutional questions involved, petitioner respectfully prays that writs of certiorari or review may issue out, and under the seal of this Honorable Court to the Supreme Court of Louisiana commanding that Court to certify and send to this Court for review and determination, on a day therein to be named, a full and complete transcript of the record and all proceedings in the matter, "*J. B. Spencer, et als. vs. Luckenbach Gulf Steamship Company, Inc., et als.,*" No. 35-702 of the Supreme Court of Louisiana, and that the said decree and judgment of the Supreme Court of Louisiana may be reversed

by this Court and that your petitioners may have such relief in the premises as this Court may deem just and fit.



J. B. SPENCER,
In Proper Person.

RICHARD DOWLING,
Of Counsel.